

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:

ORDER

Case Nos.: 16-cv-136 (*Hager v. 3M Co.*)
16-cv-621 (*Weimer v. 3M Co.*)
16-cv-2755 (*Fraley v. 3M Co., et al.*)
16-cv-2772 (*Wilburn v. 3M Co., et al.*)
16-cv-2803 (*Johnson v. 3M Co., et al.*)
16-cv-2896 (*Toler v. 3M Co., et al.*)
16-cv-3383 (*DePriest v. 3M Co., et al.*)
16-cv-3553 (*Barrett v. 3M Co., et al.*)
16-cv-3781 (*Fling, et al. v. 3M Co., et al.*)

Defendant 3M Company filed a Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [15-md-2666 Dkt. No. 424], seeking dismissal of eleven cases for failure to serve Plaintiff Fact Sheets pursuant to the Court's September 27, 2016 Pretrial Order No. 14 [15-md-2666 Dkt. No. 117]. Plaintiffs Wilma Fraley (16-cv-2755), Steven Wilburn (16-cv-2772), and Leroy DePriest (16-cv-3383) timely opposed. *See* 15-md-2666 Dkt. No. 506. Plaintiff Margaret Weimer (16-cv-621) filed an opposition brief on June 14, 2017, averring that she had served her Plaintiff Fact Sheet. *See* 15-md-2666 Dkt. No. 572. On June 15, the Court held a hearing on Defendants' Motion at the regularly scheduled status conference. For the reasons stated on the record, the Court grants the Motion as to Plaintiffs Barbara Hager (16-cv-136), Fraley (16-cv-2755), Wilburn (16-cv-2772), and Wanda Barrett (16-cv-3553), and dismisses those cases with prejudice. The Court also grants the Motion as to Plaintiff DePriest and will dismiss that

case with prejudice, but in light of counsel's representations that DePriest intends to serve his Plaintiff Fact Sheet, the Court stays the dismissal of this case for 30 days to allow DePriest the opportunity to cure the deficiency. The Court denies the Motion as to Plaintiffs Weimer (16-cv-621), Hannah Johnson (16-cv-2803), Sherrie Toler (16-cv-2896), and Richard Fling (16-cv-3781). The Motion is moot as to Plaintiffs Brenda Alford (16-cv-2757) and Linda Garro (16-cv-2874), because those cases have been dismissed by stipulation. Therefore, based on the files, records, and proceedings herein, IT IS ORDERED THAT:

1. Defendant 3M Company's Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. No. 424] is GRANTED IN PART and DENIED IN PART as stated below.
2. The following cases are DISMISSED WITH PREJUDICE: Case Nos. 16-cv-136 (*Hager v. 3M Co.*), 16-cv-2755 (*Fraley v. 3M Co., et al.*), 16-cv-2772 (*Wilburn v. 3M Co., et al.*), and 16-cv-3553 (*Barrett v. 3M Co., et al.*).
3. Case No. 16-cv-3383 (*DePriest v. 3M Co., et al.*) is DISMISSED WITH PREJUDICE, but the Court DEFERS the entry of judgment for 30 days from the date of this Order. Plaintiff DePriest may serve a completed Plaintiff Fact Sheet on Defendants consistent with Pretrial Order No. 14, and if he so serves the Plaintiff Fact Sheet and files a certification of service on the record within the 30 days, the Court will amend its ruling to deny the Motion to Dismiss as to DePriest.
4. The Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. No. 424] is DENIED as to Case Nos. 16-cv-621 (*Weimer v. 3M Co.*), 16-cv-2803 (*Johnson v. 3M Co., et al.*), 16-cv-2896 (*Toler v. 3M Co., et al.*), and 16-cv-3781 (*Fling, et al. v. 3M Co., et al.*).

Dated: June 16, 2017

s/ Joan N. Ericksen
 JOAN N. ERICKSEN
 United States District Judge